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C.M.A.(MD)No.564 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 17.06.2021

Delivered On : 23.06.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.M.A.(MD)No.564 of 2013

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
(Kumbakonam Division - II),
Periyamilaguparai,
Tiruchy - 1.

.. Appellant/Respondent

Vs.

N.Venkatasamy

.. Respondent/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree passed in M.C.O.P.No.388 of 2008 dated 30.11.2010, on the file of the Chairman, Motor Accident Claims Tribunal cum Sub Court, Kulithalai.

For Appellant	: Mr.M.Prakash
For Respondent	: Mr.N.Sudhagar Nagaraj

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the award passed in M.C.O.P.No.388 of 2008 dated 30.11.2010, on the file of the Motor Accidents Claims Tribunal/Sub Court, Kulithalai.

2.The appellant herein is the respondent and the respondent herein is the claimant in the claim petition. The respondent herein has filed a claim petition in M.C.O.P.No.388 of 2008, claiming compensation for the damages to the claimant's mini bus, in an accident that took place on 21.11.2007. The Tribunal has awarded a sum of Rs.1,07,000/- (Rupees One Lakh Seven Thousand only) as compensation. Against which, the appellant has preferred this appeal.

3.A brief substance of the claim petition in M.C.O.P.No.388 of 2008 is as follows:

The claimant is the owner of the mini bus bearing Registration No.TN-45-N-1527. On 21.11.2007, at about 09.45 hours,
<https://hcservices.ecourts.gov.in/hcservices/>



when the mini bus was driven in a moderate speed observing all the road rules, the appellant bus driver drove the bus in a rash and negligent manner and dashed against the mini bus and caused damage worth Rs.1,00,000/- (Rupees One Lakh only) and claimed a sum of Rs.1,00,000/- (Rupees One Lakh only) as compensation.

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4.The brief substance of the counter filed by the appellant/respondent is as follows:

The driver of the appellant/respondent drove the bus cautiously and carefully. At the time of accident, when the bus was crossing the railway line, a horse tied to a cart was startled and moved towards the right side and dashed against the front side of the mini bus. It is not the appellant/respondent's bus that dashed against the mini bus. The damage to the mini bus is only Rs.3,500/- (Rupees Three Thousand and Five Hundred only). The claimant can claim the amount from his insurer. The petition is dismissed for non joinder of necessary party.

5.After trial, the Tribunal has awarded a sum of Rs.1,07,000/- (Rupees One Lakh and Seven Thousand only) as compensation to be paid by the appellant. Against which, the appellant has preferred this Civil Miscellaneous Appeal.

6.On the side of the appellant, it is stated that the driver of the bus was examined as R.W.1. The insurer of the claimant's mini bus was not impleaded in the case. The accident did not took place due to the rash and negligent driving of the driver of the bus. The award amount claimed is only Rs.1,00,000/- (Rupees One Lakh only) but the Tribunal has awarded Rs.1,07,000/- (Rupees One Lakh and Seven Thousand only) and prayed the order to be set aside.

7.On the side of the respondent, it is stated that the respondent has proved the claim through documents and the award fixed by the Tribunal is correct and prayed the appeal to be dismissed.

8.It is seen that the claimant has filed documents, Ex.P3 to P5 regarding the repair works and the cost of repair. But the claim of the respondent is only Rs.1,00,000/- (Rupees One Lakh only), whereas the Tribunal has awarded a sum of Rs.1,07,000/- (Rupees One Lakh and Seven Thousand only) .

9.In the result, this Civil Miscellenaous Appeal is partly allowed by reducing the award amount from Rs.1,07,000/- (Rupees One Lakh and Seven Thousand only) to Rs.1,00,000/-(Rupees One Lakh only). The respondent is entitled to a sum of Rs.1,00,000/- (Rupees One Lakh only) as compensation with interest at the rate of 7.5% from the date of the claim petition till the date of realization.



10.The appellant is directed to deposit Rs.1,00,000/- (Rupees One Lakh only) with 7.5% interest from date of the claim petition till the date of realization and the amount if not deposited earlier, has to be deposited within a period of 8 weeks from the date of receipt of copy of this order. On such deposit, the claimant is permitted to withdraw his respective share with proportionate interest after deducting any amount received by him earlier without filing any formal petition before the Tribunal. Excess amount and court fee, if any deposited shall be refunded to the first respondent. The first respondent is not entitled for interest for the default period, if there is any. No Costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MRN

Note : In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Motor Accidents Claims Tribunal, Sub Judge,
Kulithalai.

Copy to

The Section Officer, (2C)
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.N.SUDHAGAR NAGARAJ, Advocate (SR-20101[F] dated 24/06/2021)

C.M.A. (MD) No.564 of 2013
23.06.2021

KB(07.07.2021) 3P 5C